

ORDER SHEET
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT HYDERABAD**

Cr. B.A. No. S- 673 of 2017

DATED	ORDER WITH SIGNATURE OF JUDGE
06.02.2018	

For orders on MA 7176/17
For hearing

Nazeer Ahmed A. Bhatti, advocate for applicant.

Syed Tariq Ahmed Shah, advocate holding Mr. Wali Muhammad Khoso,
advocate for complainant

Mr. Shahid Ahmed Shaikh, DPG

OMAR SIAL, J.- Applicant Iftikhar Ahmed has sought pre-arrest bail in Crime No.59 of 2017 registered at Hussainabad police station, Hyderabad under section 489-F P.P.C. Earlier, his bail application was turned down by the learned 7th Additional Sessions Judge, Hyderabad on 11.8.2017.

2. The F.I.R. in the case was registered by one Ghulam Shabbir on 1.7.2017. He recorded that his father and uncle had entered into a transaction for the sale of agricultural land with Ali Murad and Iftikhar Khuhawar. Iftikhar Khuhawar gave the complainant a cheque bearing number 04598978 for an amount of Rs. 600,000 dated 14-4-2017 and drawn on the Auto Bhan Road Branch of the Dubai Islamic Bank. When the cheque was presented at the bank counters for clearance, the same was returned with an insufficient funds endorsement.

3. I have heard the learned counsel for the Applicant, complainant and the learned D.P.G. My observations are as follows.

- i. One of the basic requirements of an act to be an offence u/s 489-F P.P.C. is that the cheque which is dishonoured was given dishonestly to fulfil an obligation or for the repayment of a loan. Upon a query from both, the learned counsel for the complainant and the learned D.P.G., whether at this stage there was any evidence to suggest that the cheque was given for the fulfilment of an obligation or repayment of a loan by the Applicant, both learned counsel replied that there was none.

- ii. It appears that the relation between the parties is not a happy one and that a couple of petitions, legal notices etc have been filed/sent by each to the other. In such circumstances, ulterior motive on the part of the complainant cannot be conclusively ruled out at this stage.
 - iii. An offence u/s 489-F P.P.C. carries a potential sentence of 3 years and thus falls within the non-prohibitory clause of section 497 Cr.P.C.
4. For the above reasons, the interim pre-arrest bail already granted to applicant on 15.8.2017 is confirmed on the same terms and conditions.

JUDGE

karar_hussain /PS*

